United States Bankruptcy Court Southern District of Texas

## **ENTERED**

October 07, 2024
Nathan Ochsner, Clerk

## IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

IN RE:	§	
	§	CASE NO: 24-33223
KIMBIRLY GONZALEZ,	§	
	§	CHAPTER 7
Debtor.	§	
	§	
JAVIER SANCHEZ, JR.	<del>-</del> §	
	§	
Plaintiffs,	§	
	§	
VS.	§	ADVERSARY NO. 24-3163
	§	
KIMBIRLY GONZALEZ, ARTURO	§	
GONZALEZ, MAKKULA LLC AND	§	
JOSE LUIS CELADON RAMIREZ,	§	
	§	
Defendants.	§	

## ORDER DENYING MOTION TO SUA SPONTE DISMISSAL

Before the court is defendant, Kimbirly Gonzalez' "Proposed Motion to Sua Sponte Dismissal of Adversary Proceeding" (ECF No. 7). The motion is denied without prejudice for the following reasons.

This adversary was filed on August 10, 2024. The adversary is a removed state court case, Cause No. 2023-38275; *Javier Espinoza Sanchez, Jr. v. Kimbirly Sanchez, et al,* In the 189<sup>th</sup> Judicial District Court, Harris County, Texas. Defendant requests dismissal of this adversary pursuant to the order entered by this Court on August 12, 2024 (ECF No. 2), which requires the issuance of any necessary summons by September 9, 2024. A new summons must be served when a state court case is removed to federal court, to properly initiate proceedings in the federal jurisdiction, as the state court summons is no longer valid. The act of removal nullifies the state summons because the state court is no longer hearing the case. Federal Rule of Civil Procedure 4(a)(1) requires that the summons name the court hearing the case.

**ACCORDINGLY, IT IS ORDERED** that summons must be issued and served as set forth in this Court's order at ECF No. 2 on or before October 23, 2024.

SIGNED 10/07/2024

Inited States Bankruptcy Judge

<sup>&</sup>lt;sup>1</sup> See Federal Rules of Civil Procedure 4(1) and 81(c)(1) These rules apply to a civil action after it is removed from state court.